



**ADVERTISING
STANDARDS
BUREAU**

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Case Report

1	Case Number	0135/14
2	Advertiser	Beiersdorf Aust Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV
5	Date of Determination	23/04/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - nudity

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a young woman in the shower using Nivea's new in-shower body lotion. She is naked but her private areas are covered by her arms.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

There should not have been any shot of the woman's breast. All of my family members were offended by this. It is totally unnecessary.

Too explicit.

The advertisement in my opinion showed a little too much of the model's breasts. It clearly pictured side, bottom and top profiles of her breasts, whilst still trying to subtly hide herself with her hands. Clearly not enough.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Beiersdorf Australia Limited is the organisation behind the iconic NIVEA brand. We refer to the complaint received by the ASB bearing reference 0135/14 for our NIVEA In-Shower Body Lotion (not 'body wash' as referred to in the complaint).

In conjunction with our advertising agency (DraftFCB), we have thoroughly considered and reviewed the complaint. We welcome the opportunity to furnish this response.

We understand the ASB have identified from the complaint that the advertisement in question possibly breaches Section 2 of the Advertising Code of Ethics, which may also include Section 2.4 – Sex, sexuality and nudity; and the Code of Advertising and Marketing Communications to Children.

Our considered response is that we do not, respectfully, agree with the complainant's view. Our contention is supported as follows:

Intent of the TVC

The NIVEA In-Shower Body Lotion is specifically formulated for use under the shower, when the skin is wet, and then rinsed off. The intent was to demonstrate how NIVEA In-Shower Body Lotion is used in the shower.

As such, the female talent is shown along with step-by-step instructions on how to properly use the product within the shower. It is important for the consumer to properly understand how to use the product, and to do so we need to demonstrate usage in a realistic situation, which in this product's case is in a shower scenario. As such it is realistic that the female talent is nude, and we have taken every precaution including the required Commercial Advice (CAD) feedback, to ensure that the female is shown in a modest fashion without revealing too much of the body.

At no point is the imagery sexually suggestive or provocative. It is purely a demonstration of product use, and is in no way exploitative or degrading to women. The visuals are consistent with the overall ad campaign including point-of-sale that depicted a tastefully shot female in the shower, as required to communicate the product usage.

Localization of TVC

The original TVC was developed in Germany, and included additional footage showing more of the female body. Although there was never any sexual innuendo or gratuitous intent, we do recognize that societal norms are different in Australia versus Europe.

As such, prior to airing the spot in Australia, the original TVC was in fact edited with the

Australian consumer in mind, and scenes were removed or cropped that were felt to be too revealing.

Classification of TVC

The TVC received a classification of ‘W’, confirming that it is appropriate for all audiences, exclusive of during or adjacent to Children’s & Preschool programming.

‘W’ rating as defined by the CAD is as follows:

(c) GENERAL/WARNING “W”

Definition: General/Care in placement.

May be broadcast at any time except during P (preschool) and C (children's) programs or adjacent to P or C periods. Exercise care when placing in cartoon and other programs promoted to children or likely to attract a substantial child audience.

Product Description: Commercials which comply with the G classification criteria in Appendix 4, Section 2 of the Code of Practice but require special care in placement in programs promoted to children or likely to attract a substantial child audience.

The complainant viewed the In-Shower TVC during an automotive program (The Pits), running adjacent to other automotive programming.

The media agency, OMD, has ensured that the TVC will only run in the appropriate programming. The CAD rating system is also an additional checkpoint to ensure stations do not air the TVC during or adjacent to Children’s or Preschool programming.

Response in Australia

It should be noted that this campaign has been on air in various formats – all showing the same female body – since September 2013. Yet, this is the first and only complaint over the time period, indicating that the vast majority of the Australian audience has taken no offense to the content, a testament that due care was taken to demonstrate the product usage in a tasteful way.

For all the above reasons, we contend that the TVC has sufficiently treated “sex, sexuality and nudity with sensitivity to the relevant audience.”

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement depicts a woman

showering in a manner which exposes too much of her naked breasts.

The Board viewed the advertisement and noted the advertiser's response

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Board noted the advertisement features a woman showering and using an in-shower body lotion.

The Board noted it had previously dismissed a similar advertisement featuring a woman in a shower (0273/13) where:

"The Board noted the complainants' concerns that the woman is presented in a sexualised manner and considered that in the context of a shower product which is targeted at women it is not inappropriate to show a woman using the product provided there is no unnecessary nudity or sexualised posing. The Board noted that in this instance the woman's private areas are covered by her arms or by special effects and considered that the depiction of the woman lathering herself with the gel in conjunction with the seductive voice over is designed to give the overall impression of indulgence rather than sexuality."

The Board noted that the current advertisement had been rated 'W' by CAD. The Board noted that the woman is clearly naked as she is in a shower and that in one scene there is a side shot of part of her breast but considered that the level of nudity is not inappropriate for the relevant audience which could include children.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.